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OCT 2 2007

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OSCAR CALVILLO-JIMENEZ,

Defendant - Appellant.

No. 06-10387

D.C. No. CR-05-00749-1-NVW

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Submitted September 24, 2007^{**}

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

Oscar Calvillo-Jimenez appeals from the 92-month sentence imposed following his jury-trial conviction for illegal re-entry after deportation in violation

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of 8 U.S.C. § 1326(a), and enhanced by 8 U.S.C. § 1326(b)(2). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Calvillo-Jimenez contends that the district court misapprehended the law by denying a two-level downward adjustment for acceptance of responsibility. We conclude that there is no support in the record for this contention. Furthermore, we conclude that as a factual matter, the district did not clearly err by denying the downward adjustment. *See United States v. Martinez-Martinez*, 369 F.3d 1076, 1090 (9th Cir. 2004).

Appellant also contends that his sentence was unreasonable because it was greater than necessary under 18 U.S.C. § 3553(a) and because the district court did not discuss appellant's need for drug treatment. We conclude that appellant's sentence was not unreasonable. *See United States v. Plouffe*, 445 F.3d 1126, 1131-32 (9th Cir.), *cert. denied*, 126 S. Ct. 2314 (2006); *see also United States v. Mix*, 457 F.3d 906, 912 (9th Cir. 2006).

AFFIRMED.